

# AB 932 A BIG VICTORY

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*The Board of Podiatric Medicine (BPM) is the unit of the Medical Board of California (MBC), Department of Consumer Affairs, which administers licensing of DPMs under the State Medical Practice Act.*

*Sacramento--*Unanimous votes can be misleading. **AB 932** is a victory CPMA won through a tenacious, multi-faceted campaign. It was fought over line by line. The opponents--few but vocal in front of consensus-seeking lawmakers--were overwhelmed by facts and outmaneuvered politically.

As Winston Churchill advised, CPMA is being modest, even magnanimous in victory, strengthened with new allies. There is also new respect from political players who hadn't given you a chance.



## **Auspicious Advance**

As of January 1, the law will no longer proclaim “No podiatrist shall . . .” This unique, inappropriate language suggested that podiatric medicine is some sort of questionable provider group needing to be watched, kept in its place, or even restricted.

With CPMA's educational work on AB 932, the profession is already better recognized as the elite specialty it is. Policy makers are realizing that DPMs hold themselves to higher professional licensing standards than any other medical specialty. That provided high ground for turning this years-long struggle into success.

Amputations (“no further proximal than the Chopart's joint”) are now written into the law. No more “No podiatrist shall do any amputation” in Section 2472 of the B&P Code! Management of the diabetic foot will no longer be dependent on a BPM interpretation, which was always vulnerable despite the common sense, medical sense and Legislative good sense that sustained it so long over legal opinions to the contrary.

Also, *as part of your licensed authority*, you will be able to assist an MD or DO physician in any surgical procedure. Not as an unlicensed technician as you have before, but as a state-licensed surgeon. Podiatric medicine is your specialty, but you can assist in anything. That reflects the new stature you brought into being, and that CPMA has carved into the stone called the California Medical Practice Act (B&P Code).

In addition, CPMA's Legislative Representative Barry Broad wrote brilliant H&P language. Without adding it to the scope as a positive statement (which would have

worked against DPMs in other states, where the law is silent), he turned around a sticking point with the California Orthopaedic Association:

A doctor of podiatric medicine shall not perform an admitting history and physical examination of a patient in an acute care hospital where doing so would violate the regulations governing the Medicare program.

That limit is restricted to Medicare patients and may soon be lifted altogether at the Federal level thanks to APMA.

As part of the negotiation, a five-year hold was agreed to for further modernization of the scope. Superficial conditions above the ankle, which many facilities encourage despite awareness of the law, should come after that time.

### **Scope of Practice**

State laws established DPM licensing to authorize your expert services to patients. The law specifically authorizes your practice of podiatric medicine and is not designed to prevent it.

Unlike most other doctors, your specialty is defined by the license itself. Competing provider groups sometimes played on this, seeking to hamstring DPMs from using some of the same modalities even providers without foot and ankle training employ for podiatric conditions.

They argued the foot and ankle were the only parts of the body you could touch. Some lawyers, playing it safe with minimalist interpretations, to avoid having to argue with other attorneys, sometimes lean to the same narrow, illogical opinions. However, the limits in the statute address not what you can touch, but what you can treat. Administering a shot in the arm does not constitute treatment of the arm. The procedure in question is within your scope if you are employing it to treat the foot and the ankle.

The requirement to have general anesthetics administered by an anesthesiologist or CRNA simply reflects that MDs would be required to do the same or be subject to discipline for unprofessional conduct (gross negligence, incompetence).

### **Cite & Fine Program**

Rumor has it BPM is using cite and fine authority to raise revenue!

In Fiscal Year 2003-04, BPM issued one (1) citation. There were five (5) citations in each of the three previous years. Total cite & fine receipts: **\$1,500** in 2003-04, **\$2,500** in 2002-03, **\$1,050** in 2001-02, and **\$500** in 2000-01.

Those amounts are insignificant relative to our \$1-million annual budget.

BPM uses cite & fines to enforce the law and obtain compliance. They are not disciplinary and are removed from public disclosure five years from the date compliance is obtained.

Unlike some other licensing boards, BPM does not cite for violations like forgetting to report address changes, unless there are more serious issues attached such as failure to renew and practicing without a current, valid license.

Due partially to past enforcement that some felt was zealous, podiatric medicine is not presenting many violations for which cite & fine is appropriate. Advertising is an example. If there were violations, we would be citing. But not to raise revenue.

### **Footnotes**

BPM recently reminded the 445 DPMs who were licensed prior to 1984 and not subsequently “ankle licensed” of the continuing option to take a BPM oral exam to become full-scoped. As amended, the law also now ties amputation and surgical assistance to MDs to the 1984 date, with the BPM exam option.

Bear in mind that BPM’s *Information for Health Facilities* has long stated that non-ankle licensed DPMs may **assist** ankle-licensed DPMs in ankle surgery. The same logic applies to **assisting** in amputations. However, without passing the BPM exam, these pre-1984 licensees may only assist MD surgeons above the ankle as technicians, not as licensed DPMs.

The exam BPM will offer as frequently as possible, given demand, is not an ankle surgery test. Current law requires that any state licensing exam test for the minimum entry-level competence required for common practice within the profession. BPM’s test will not be a board certification exam or any indicator for hospital privileges. It is a *licensing* test.

**[bpm.ca.gov](http://bpm.ca.gov)**

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